

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

Case No. CV-0401945 (JBW)(SMG)

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BARBARA SCHWAB, ET AL, )  
INDIVIDUALLY AND ON )  
BEHALF OF A CLASS OF ALL )  
OTHERS SIMILARLY )  
SITUATED, )  
Plaintiffs, )  
VS. )  
PHILIP MORRIS USA, INC., )  
ET AL, )  
Defendants. )  
-----)

DAY II  
PAGES 329-580

VIDEOTAPED DEPOSITION of

DOCTOR JOHN R. HAUSER, called as a witness  
by and on behalf of the Defendant, pursuant  
to the Federal Rules of Civil Procedure,  
before Teresa E. Costello, Registered  
Professional Reporter, Certified Shorthand  
Reporter No. 1452S98, and Notary Public  
within and for the Commonwealth of  
Massachusetts, at the offices of  
Goodwin Procter, 53 State Street, Boston,  
Massachusetts, on Friday, March 24, 2006,  
commencing at 10:06 a.m.

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<p>1 A. I still find the question confusing, but let 2 me attempt to answer it. In the internet 3 survey the -- in the conjoint analysis I did 4 not attempt to measure the reasons as to why 5 people started smoking in the first place. 6 Q. In the conjoint analysis you made no effort 7 to determine whether anyone would not have 8 started smoking if he perceived that light 9 cigarettes were as unhealthy as regular 10 cigarettes? 11 MR. GALLAGHER: Objection to the 12 form. 13 A. In the internet survey, the conjoint 14 analysis survey, I did not attempt to 15 determine the causes that led consumers to 16 start smoking, and therefore I did not 17 measure in the conjoint analysis internet 18 survey whether or not starting smoking was 19 due to health risk. 20 Q. Okay. In the internet survey you made no 21 effort to determine why consumers switched 22 from one brand to another during their 23 smoking history, correct? 24 A. The purpose of the internet survey focused 25 on the brand they were now smoking and then</p>	<p>1 MR. GALLAGHER: Same objection. 2 A. The focus of the internet survey was to 3 determine consumers' trade-offs between 4 health risk, price, taste and other 5 dimensions. The internet conjoint analysis 6 survey was not a study of smoking cessation. 7 Q. Consequently you've made no effort to 8 determine the percentage, if any, of light 9 smokers who would have stopped smoking if 10 they believed that low tar cigarettes, 11 including lights, were as unhealthy as 12 regular cigarettes, correct? 13 A. That's not quite true. 14 Q. What percentage of consumers, according to 15 your internet survey, would have stopped 16 smoking if they perceived that light 17 cigarettes were as unhealthy as regular 18 cigarettes? 19 A. Well, I haven't looked at all the data to 20 answer that particular question; however, 21 the following I do know. That when we give 22 them statements such as change in health, 23 they have indicated that they would continue 24 to purchase the cigarettes, but at a 25 different price, for example, so this data,</p>
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<p>1 trade-offs between health risk, monetary 2 value, taste and other dimensions, and thus 3 the respondents were conditioned upon 4 already having chosen a brand. The internet 5 survey was not focused on inter brand 6 choice. 7 Q. So you made no effort and you have not 8 calculated the percentage of light smokers 9 who would have switched to other cigarettes 10 if they perceived -- let me rephrase that 11 question. 12 You have not looked to determine 13 what percentage of light smokers would have 14 stopped smoking if they perceived that low 15 tar cigarettes, including lights, were as 16 unhealthy as regular cigarettes, correct? 17 MR. GALLAGHER: Objection to the 18 form. 19 A. Could you rephrase that? 20 Q. Ah-hah. You have made no effort to 21 determine what percentage of light cigarette 22 smokers would have stopped smoking if they 23 perceived that low tar cigarettes, including 24 lights, were as unhealthy as regular 25 cigarettes, correct?</p>	<p>1 while not directly addressing that question, 2 is certainly data that could inform the 3 answer to that question, and so as a result, 4 you know, it's a study that certainly could 5 be done. 6 I'm not providing an expert opinion 7 on smoking cessation; however, it's 8 possible, should I be asked to reanalyze the 9 data with smoking cessation in mind, I might 10 be able to form opinions, but I've not done 11 that at this point, and I'm not providing an 12 expert opinion on smoking cessation. 13 Q. Indeed -- in the current marketplace there 14 was cigarettes that are unfiltered. There 15 are cigarettes, higher tar cigarettes, 16 full-flavored cigarettes with filters. 17 There are low tar cigarettes including light 18 cigarettes, and there are ultra light 19 cigarettes, correct? 20 A. I'm -- you're making a statement as to the 21 marketplace which sounds reasonable. I'm 22 willing to accept that as your statement 23 subject to verification. 24 Q. Every one of the participants in your survey 25 have rejected ultra light cigarettes, is</p>

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<p>1 A. Are you referring to interviews in this 2 case? 3 Q. Yes. 4 A. Okay, you're referring to interviews in this 5 case. I debriefed -- I was debriefed by Mr. 6 Gaskin and Miss Schusshein on the interviews 7 that they conducted; however, I did not 8 conduct any additional interviews beyond the 9 interviews that they conducted at my 10 direction. 11 Q. So to the best of your knowledge -- let me 12 go back. No consumer has ever told you, 13 personally, that he views a filter tip 14 cigarette as a regular cigarette, is that 15 correct? 16 MR. GALLAGHER: Objection to the 17 form. 18 A. I can't answer that. I've spoken to many 19 consumers in many instances totally outside 20 this case. I do not recall whether they 21 referred to cigarettes as regular cigarettes 22 or not. It's certainly the word that I'm 23 used to hearing, so I form that belief 24 sometime; however, I'm not giving an expert 25 opinion on that.</p>	<p>1 they were able and willing to make 2 trade-offs with respect to regular. We did 3 not do any quantitative analysis of pre-test 4 interviews nor did we do a quantitative 5 analysis of qualitative interviews as is 6 appropriate survey methodology; therefore, 7 since I did not record the number of people 8 who told me that or described cigarettes as 9 regular whether they be filtered or 10 unfiltered or whatever, that was not 11 recorded; therefore, I cannot, sitting here 12 today, give you the exact number of people. 13 Q. Let me represent to you that at his 14 deposition two weeks ago Doctor Jeffrey 15 Harris said that he found the word, regular, 16 as used in this survey to be ambiguous. Now 17 I'm going to ask you questions with regard 18 to specific ads. Let me hand you what's 19 been marked for identification purposes 20 as -- 21 MR. GALLAGHER: Hold on. What was 22 the point of that? Are you going to ask him 23 a question about what Doctor Harris said 24 about these ads? 25 MR. GROSSMAN: Yes, about what</p>
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<p>1 The pre-test interviews in this 2 case were done or qualitative interviews 3 done in this case were done by my team. 4 Q. Now did Mr. Gaskin or Miss Schusshein tell 5 you how many people being interviewed 6 referred to filter tip cigarettes as 7 regular? 8 A. Miss Schusshein and Mr. Gaskin told me that 9 based upon the qualitative interviews and 10 their experience and experiential 11 interviews, they told me that the questions 12 as we ultimately worded them, were well 13 understood by consumers, and they can make 14 the appropriate trade-offs. 15 MR. GROSSMAN: Move to strike as 16 non-responsive. 17 Q. Doctor Hauser, did Miss Schusshein or 18 Mr. Gaskin specifically tell you the number 19 of respondents, the number of people who 20 they interviewed who understood the word, 21 regular cigarette, to mean filter tip 22 cigarette? 23 MR. GALLAGHER: Objection to the 24 form. 25 A. Consumers understood the word, regular, and</p>	<p>1 Doctor Harris said and the ads. 2 MR. GALLAGHER: Gratuitous. 3 MR. GROSSMAN: No. Both are 4 identical. 5 MR. GALLAGHER: Do you have 6 a copy of the transcript to show him what 7 Doctor Harris actually said since that is 8 available? 9 MR. GROSSMAN: I think we do. I 10 think we do have a copy of it. 11 MR. GALLAGHER: He shouldn't have 12 to rely on your representation of what 13 Doctor Harris said. 14 MR. GROSSMAN: We're not going to 15 take time to do it now but -- 16 MR. GALLAGHER: If you can make 17 that available, that's the fairest thing to 18 the witness because I think you're 19 mischaracterizing Doctor Harris' testimony. 20 MR. GROSSMAN: Let me hand you 21 this. We're not going to take time out to 22 do it right now, but I'll show you the 23 portion. 24 MR. GALLAGHER: Well, I don't think 25 he has to answer a question until he's seen</p>

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<p>1 it.</p> <p>2 MR. GROSSMAN: Well, I'm going to</p> <p>3 ask him another question.</p> <p>4 Q. Doctor Hauser, let me show you what's been</p> <p>5 marked for identification purposes as</p> <p>6 Exhibit 15. It's an ad for Camel</p> <p>7 cigarettes?</p> <p>8 MR. GALLAGHER: Can you read that</p> <p>9 copy, Doctor Hauser?</p> <p>10 A. This is an ad with -- a little bit hard to</p> <p>11 see -- it looks like P period -- I can't.</p> <p>12 There's some pencil up here. It looks to be</p> <p>13 a date of 6/1/67?</p> <p>14 Q. Yes. This is an advertisement from 1967 for</p> <p>15 Camel cigarettes.</p> <p>16 A. And there's another date that appears to be</p> <p>17 4/18/67. What do those mean?</p> <p>18 MR. GALLAGHER: My copy is cut off.</p> <p>19 I don't even have the full advertisement.</p> <p>20 Q. Do you see under the -- that there are two</p> <p>21 packages of Camels in this ad?</p> <p>22 MR. GALLAGHER: Doctor Harris, let</p> <p>23 me see your version. This is not a complete</p> <p>24 copy. It is cut off.</p> <p>25 MR. GROSSMAN: Your objection is</p>	<p>1 Q. Part of an M?</p> <p>2 A. Part of an M.</p> <p>3 MR. GALLAGHER: I have one more</p> <p>4 question. Are you representing the date</p> <p>5 written on here is the date when this ad</p> <p>6 ran?</p> <p>7 MR. GROSSMAN: It's my</p> <p>8 understanding that that is the date when the</p> <p>9 ad ran. This is from 1967.</p> <p>10 MR. GALLAGHER: 1967 prior to the</p> <p>11 introduction of light cigarettes.</p> <p>12 MR. GROSSMAN: That's correct.</p> <p>13 Q. Have you ever seen this ad before,</p> <p>14 Doctor Hauser?</p> <p>15 A. I've seen many, many ads throughout my life.</p> <p>16 This ad -- if I accept your representation</p> <p>17 as 1967 which is almost 40 years ago, I do</p> <p>18 not recall whether or not I've seen this ad</p> <p>19 40 years ago.</p> <p>20 Q. Let me hand you what I've had marked for</p> <p>21 identification purposes as Hauser</p> <p>22 Exhibit 16. That's a Chesterfield ad. This</p> <p>23 also is quite old. I don't know the date,</p> <p>24 but I believe it's from the 1960's.</p> <p>25 A. Okay, so you believe that this ad is from</p>
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<p>1 noted.</p> <p>2 MR. GALLAGHER: A significant</p> <p>3 number of words on the right-hand side. It</p> <p>4 is unclear what the full ad says. Go ahead.</p> <p>5 MR. GROSSMAN: Your objection is</p> <p>6 noted.</p> <p>7 MR. GALLAGHER: Thank you.</p> <p>8 Q. Doctor Hauser, do you see the two packages</p> <p>9 of cigarettes?</p> <p>10 A. There's a package of Camels and there's a</p> <p>11 package of Camels that's a little bit cut</p> <p>12 off on this ad.</p> <p>13 Q. The one that just --</p> <p>14 A. A different package, yes.</p> <p>15 Q. The different package which is on the right</p> <p>16 is an unfiltered cigarette, and the one on</p> <p>17 the left is a filtered cigarette, is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And underneath it says, "Regular or Filter.</p> <p>21 Have a real smoke. Have a Camel."</p> <p>22 Is that correct?</p> <p>23 A. It says, "Regular or Filter," and then the</p> <p>24 next line it says, Have a real smoke... have</p> <p>25 a C-a-r.</p>	<p>1 the 1960's, and I should accept that as a</p> <p>2 predicate?</p> <p>3 Q. Yes.</p> <p>4 A. So should I write that on there?</p> <p>5 Q. No, don't write that down there.</p> <p>6 A. So I can write that down on my yellow sheet</p> <p>7 of paper?</p> <p>8 Q. If you want to, sure.</p> <p>9 A. So we now have Chesterfield, assume 1960's.</p> <p>10 Q. Doctor, this ad represents two unfiltered</p> <p>11 cigarettes, one called king size and the</p> <p>12 other a shorter pack. Do you see where it</p> <p>13 says, "Chesterfield best for you?" And</p> <p>14 above that --</p> <p>15 A. Wait. Where?</p> <p>16 Q. Lower right?</p> <p>17 A. Oh, okay. "Chesterfield, best for you."</p> <p>18 Q. Above that it says, "Chesterfield first with</p> <p>19 premium quality in both regular and</p> <p>20 king-size?"</p> <p>21 A. Yes, I see that.</p> <p>22 Q. And in that ad regular refers to the shorter</p> <p>23 size unfiltered cigarette?</p> <p>24 A. Okay. In this advertisement which I'm going</p> <p>25 to have to accept as a predicate, is a true</p>

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<p>1 coupon. Doctor Hauser, I've handed you 2 what's been marked for identification 3 purposes as Hauser Number 19. This is a 4 store coupon from 1981. If you look on the 5 second page it says, "Coupon expiration 6 date, December 31, 1981." Do you see that? 7 A. I see this. I'm sorry. Where is the date 8 on this? 9 Q. Second page? 10 A. Second page. December 31st, 1981. 11 Q. You see this is a coupon to save \$1 on a 12 carton of Camel Lights, Camel Filters or 13 Camel Regulars? 14 A. I see where it says that, yes. 15 Q. It's your understanding, is it not, that 16 Camel regular is the unfiltered product? 17 MR. GALLAGHER: Objection to the 18 form. 19 A. You're asking me to make an opinion here? I 20 have not studied these nor have I talked to 21 how consumers would interpret those. 22 Q. Okay, I'd like to direct your attention -- 23 A. This particular ad. I'm not saying how 24 consumers would interpret this particular 25 ad.</p>	<p>1 attention, if I may, to in the upper 2 right-hand corner page six. 3 A. Upper right-hand corner of page six. 4 Q. Page six in the upper right-hand corner? 5 A. It's blank. 6 MR. GALLAGHER: No, it's -- 7 A. You mean the text? 8 Q. Do you see where it says page six up here? 9 No, go further. The first eleven pages are 10 numbered at the bottom, and then there are 11 pages -- 12 A. Pages numbered at the top, okay. Okay, I 13 have it. 14 Q. Could you look with me at the Camel 15 cigarettes listed? 16 A. Yes. 17 Q. You see there are described a number of five 18 cigarettes that are 100's and then it has F? 19 Some are listed as light or menthol or ultra 20 light. Do you see that? 21 A. I see basically a printout of a table here, 22 yes, and what was your question? 23 Q. Do you see that some of the Camels are 24 listed as 100's? 25 A. I see that in the second column of this</p>
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<p>1 Q. You've not studied how consumers interpret 2 any cigarette ad, is that correct? 3 A. I have not done a systematic survey, study 4 of cigarette advertising. 5 Q. What's the number of this? I'd like to 6 direct your attention, if I may, to 7 Exhibit Number 6. 8 MR. GALLAGHER: Are you done with 9 the -- done with advertisements? 10 MR. GROSSMAN: No, it's all going 11 to be together. 12 MR. GALLAGHER: I want to keep them 13 out. 14 Q. Could you please look at Exhibit Number 6? 15 A. Which one is that? 16 Q. That is the FTC Tar, Nicotine and Carbon 17 Monoxide report issued in the year 2000. 18 A. Exhibit 5 or Exhibit 6? 19 Q. Let me see and I'll tell you. Exhibit 5. 20 Yes, this was the one we substituted in. 21 Look at Exhibit 6. 22 A. Look at Exhibit 6? 23 Q. Yes. 24 A. Thank you. 25 Q. Doctor Hauser, I'd like to direct your</p>	<p>1 table, Camels, there are one, two, three, 2 four, five of them listed as 100. 3 Q. Do you see that there are then a number 4 listed as king? 5 A. There are a number listed as king. I agree 6 with that. 7 Q. Do you see there's then one listed as 8 regular? 9 A. Well, there's one listed in this taxonomy 10 with the terms, Reg. 11 Q. Yes. That's the Camel non filtered? 12 A. Is that what NF means? 13 Q. Yes, it is. 14 A. I will accept your representation that NF 15 means non filtered. 16 Q. Could you look with me at page -- 17 A. However, there are -- well, go ahead. 18 Q. Page 16. 19 A. Also at the top? 20 Q. At the top. Toward the middle of the page 21 do you see the Lucky Strikes? 22 A. I see Lucky Strike. 23 Q. Do you see the first one is regular, listed 24 as regular non filtered? 25 A. I again see a table on page 16 here. I see</p>

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<p>1 Lucky Strike in the first column. I see Reg 2 in the second column. 3 Q. And beyond that there are Lucky Strikes 4 listed as king, and those have filters? 5 A. I see the three other listed as Lucky 6 Strike. They appear to have asterisks after 7 them. I do not know what the asterisks 8 mean. In the second column there's the 9 word, king, and in the third column there is 10 the letter, F. 11 Q. One more. Could you look with me at 12 page 21 in the upper right-hand corner? 13 A. Oh, I'm on the page. Sorry. 14 Q. Do you see almost at the bottom there's -- 15 there are a number of cigarettes called 16 Pall Mall? 17 A. Yes, in the first column there are one, two, 18 three, four, five, six, seven Pall Mall. 19 Two of these have asterisks. I still do not 20 know what the asterisks mean. 21 Q. The last one says, regular non filtered? Do 22 you see that? 23 A. The last one in this taxonomy has Reg in the 24 second column and has NF in the third 25 column.</p>	<p>1 first. 2 Q. Have you ever asked any consumer what he or 3 she understands by the term, Camel regular? 4 A. As part of this litigation I have not asked 5 any consumer what he or she means by -- 6 which was it again? 7 Q. Camel regular? 8 A. Camel regular, however, as you know there 9 were qualitative interviews and pre-tests 10 that were done by my team upon which I've 11 been briefed. 12 Q. If consumers understand regular to refer to 13 an unfiltered cigarette, as a 14 hypothetical -- 15 A. Okay, one more. Let me write it down. So 16 now we have assume consumers regular equals 17 what? 18 Q. Regular equals short, unfiltered cigarette. 19 A. Short. That's pure hypothetical because 20 that's not the case, but go ahead. 21 Q. Doctor, if consumers understand -- as a 22 predicate question -- your survey, in more 23 than one place, asks consumers to compare 24 the risks of what are referred to as light 25 cigarettes and what are referred to as</p>
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<p>1 Q. Doctor Hauser, have you undertaken any study 2 to determine whether the term, regular, as 3 it is used in cigarette advertising as it's 4 used by the FTC or as it's used by cigarette 5 companies, refers to 70-millimeter 6 cigarettes most, but not all of which, are 7 non filtered? 8 MR. GALLAGHER: Objection to the 9 form. Lack of foundation. 10 A. I have not done a systematic study of the 11 taxonomy used by the FTC nor am I providing 12 an expert opinion in this case about 13 cigarette advertising. 14 Q. As we sit here today you have made no study 15 to determine whether smokers of cigarettes 16 understand the term, regular, when it's 17 applied to cigarettes, to mean short, 18 unfiltered cigarettes, is that correct? 19 A. That is not correct. 20 Q. Have you ever asked any consumer what his or 21 her understanding is of the term, Camel 22 regular? 23 MR. GALLAGHER: Him, personally, or 24 as part of a study, just to clarify? 25 MR. GROSSMAN: I'll break it down</p>	<p>1 regular cigarettes, isn't that correct? 2 A. Yes. Those words are chosen within the 3 context of the survey in the context of the 4 questions that are being asked, and I'm 5 confident that the pre-test and the 6 qualitative interviews indicate that 7 consumers understood the context of those 8 words. 9 Q. Move to strike the latter part as 10 unresponsive. Doctor Hauser, if consumers, 11 and I understand that you believe otherwise, 12 but if consumers understand the term, 13 regular, to apply to unfiltered cigarettes, 14 then the comparison that they were -- that 15 they make in health risks of light 16 cigarettes and so-called regular cigarettes 17 would not be applicable to the comparison of 18 their perception of the health risks of 19 light cigarettes with full flavored filtered 20 cigarettes, is that correct? 21 MR. GALLAGHER: Objection to the 22 form. 23 A. Very complicated question which includes a 24 hypothetical that I do not accept. 25 Furthermore, we are talking -- you're making</p>

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<p>1 health risks was second most important for</p> <p>2 an additional approximately 58 percent, so</p> <p>3 the 58 plus the 18 is now getting into the,</p> <p>4 you know, large majority of consumers for</p> <p>5 which health risk is ranked either first or</p> <p>6 second.</p> <p>7 Q. For the typical consumer of light</p> <p>8 cigarettes, health risks are the most</p> <p>9 important factor -- let me -- I'll start the</p> <p>10 question again. For the typical purchaser</p> <p>11 of light cigarettes, health risks are not</p> <p>12 the most important factor in choosing their</p> <p>13 brand and type of cigarette.</p> <p>14 A. Again, defining importance as the difference</p> <p>15 between the maximum partworth for that</p> <p>16 feature and the minimum partworths for that</p> <p>17 feature. Again, just so we're making sure</p> <p>18 of the technical definition here, then for</p> <p>19 18.4 percent of the respondents, health risk</p> <p>20 is the most important. It's the second most</p> <p>21 important for approximately 58 percent and a</p> <p>22 third of four for approximately 22 percent</p> <p>23 so, you know, I'm answering the question</p> <p>24 because I want to be as technically accurate</p> <p>25 as possible to avoid any misinterpretation</p>	<p>1 between the maximum partworth for that</p> <p>2 feature and the minimal partworth for that</p> <p>3 feature. Having now made that definition so</p> <p>4 I can be perfectly clear, I am quite happy</p> <p>5 to say that -- not happy to say -- that's</p> <p>6 not happy. I am accurately reporting that</p> <p>7 18.4 percent of these consumers find health</p> <p>8 risk to be the most important; therefore,</p> <p>9 100 minus 18.4 which is 81.6 percent of the</p> <p>10 consumers find one of the other four</p> <p>11 features to be more important than health</p> <p>12 risks.</p> <p>13 Q. Doctor, in your survey before asking</p> <p>14 consumers to make choices upon which</p> <p>15 partworths were measured, you asked</p> <p>16 consumers on a numerical scale to compare</p> <p>17 the risks of light cigarettes with what you</p> <p>18 referred to as regular cigarettes, is that</p> <p>19 correct?</p> <p>20 A. Okay, let's -- yes, there was a numerical</p> <p>21 scale, but so that we can facilitate the</p> <p>22 questioning, let's get to that exact</p> <p>23 numerical scale in the survey. Okay, we're</p> <p>24 talking about health risks?</p> <p>25 Q. Yes.</p>
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<p>1 of the numbers.</p> <p>2 Q. You've given opinions in other class actions</p> <p>3 about predominance and typicality, correct?</p> <p>4 A. Predominance and typicality, I understand,</p> <p>5 are legal terms. I'm not providing a legal</p> <p>6 opinion here. I am testifying as to the</p> <p>7 veracity of the -- the reliability and</p> <p>8 validity of the survey and I'm also</p> <p>9 testifying to what the results of those mean</p> <p>10 in terms of percentage of consumers who have</p> <p>11 certain opinions. I leave it to counsel to</p> <p>12 turn this into a legal filing.</p> <p>13 Q. Given four factors and only four to consider</p> <p>14 as to the choice of cigarettes, those</p> <p>15 factors being box or pack, health risks,</p> <p>16 price and perceived taste, the overwhelming</p> <p>17 majority did not choose perceived health</p> <p>18 risks as the most important factor in their</p> <p>19 choice, correct?</p> <p>20 MR. GALLAGHER: Objection. Asked</p> <p>21 and answered.</p> <p>22 A. Again, just so we have a technical statement</p> <p>23 here and I really want to make clear this so</p> <p>24 I can answer the question as accurately as</p> <p>25 possible. Here importance is the difference</p>	<p>1 A. Yes. So this is page E19 of Exhibit 7.</p> <p>2 Q. You asked respondents to rate what they</p> <p>3 perceive to be the health risks of light</p> <p>4 cigarettes compared to regular cigarettes on</p> <p>5 a scale of zero to 150 and one to 150 where</p> <p>6 100 equals the risk of a regular cigarette,</p> <p>7 is that correct?</p> <p>8 A. That's -- let me just make that technically</p> <p>9 correct. It's a scale of zero to the top</p> <p>10 point is 150 plus, and the respondents then</p> <p>11 can enter a number between zero and</p> <p>12 essentially anything they want, the high</p> <p>13 end. I do not recall whether anybody</p> <p>14 entered higher than 150, but yes, we did use</p> <p>15 this scale.</p> <p>16 Q. And your tabulation of the responses shows</p> <p>17 that approximately 40 percent of all</p> <p>18 respondents valued light cigarettes on that</p> <p>19 scale as being 100 or higher, is that</p> <p>20 correct?</p> <p>21 MR. GALLAGHER: Objection to the</p> <p>22 form.</p> <p>23 A. Well, it depends what you mean by</p> <p>24 approximately 40 percent, but the actual</p> <p>25 numbers can be calculated. On this scale I</p>

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<p>1 believe it was about 38 percent, maybe a 2 little bit less, indicated 100, and then 3 there was a much smaller percentage that 4 indicated a number higher than 100, and this 5 was their perceptions at the time of the 6 survey which was in the spring of 2005. 7 Q. Doctor, just for clarity, over 38 percent of 8 all of the respondents value the health 9 risks -- 10 A. Well, let's say over 37. That's what I do 11 remember. 12 Q. Over 37 percent of all the respondents wrote 13 the number 100. Isn't that correct? It's 14 37.16 percent wrote the number 100, isn't 15 that correct? 16 A. I really wish you would use positives in the 17 questions; it would be so much easier. 18 Would be done quicker. 19 Q. I'll rephrase the question. Over 37 percent 20 of the respondents to your survey wrote the 21 number 100 in the comparison of the risks of 22 light cigarettes and so-called regular 23 cigarettes, correct? 24 A. It is correct that at the time of the 25 survey, which was spring, 2005, and again</p>	<p>1 than the health risks of regular cigarettes 2 at the time of the survey which is again 3 spring of 2005. 4 I do not know prior to the -- from 5 the conjoint analysis I do not know whether 6 they held different beliefs prior to that 7 survey. 8 Q. Fine, but more than 38 percent viewed light 9 cigarettes at the time of the survey as 10 being as dangerous or more dangerous than 11 so-called regular cigarettes, correct? 12 A. As I've indicated, slightly over 60 percent 13 which is 100 minus 38 or whatever, you can 14 do the arithmetic just as well as we can, 15 perceived light cigarettes as being less 16 unhealthy than regular cigarettes and, of 17 course, the complement of that, 100 minus 18 that number would perceive the opposite at 19 the time of the survey. 20 MR. GROSSMAN: Okay, we have to 21 change the tape. Why don't we take a 22 five-minute break? While you're changing 23 the tape, I want to stay on the written 24 record for one moment. Paul, the data that 25 you --</p>
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<p>1 I'm trying to remember the exact number. I 2 don't have it in front of me, but it is the 3 ball park of 37 percent of the respondents 4 answered -- wrote down 100 in this box. 5 Q. And another group comprising something over 6 one percent of the respondents, wrote 7 numbers over 100, correct? 8 MR. GALLAGHER: Objection to the 9 form. 10 A. At the time of the survey, which was spring 11 of 2005, there were a small percentage of 12 respondents, I do not recall whether it was 13 slightly over or slightly under one percent, 14 wrote a number higher than 100 in this box. 15 Q. So when asked directly, something over 16 38 percent of all the respondents viewed 17 light cigarettes as being as dangerous or 18 more dangerous than so-called regular 19 cigarettes, correct? 20 A. Well, what we're saying is that 21 approximately 60 percent, a little bit 22 under, a little bit more -- a little bit 23 more than 60 percent -- a little bit more 24 than 60 percent of the people viewed the 25 health risks of light cigarettes to be less</p>	<p>1 MR. GALLAGHER: Ted, I really need 2 to use the restroom. 3 MR. GROSSMAN: Okay. 4 (Brief Recess.) 5 Q. Doctor Hauser, when we took the break you 6 had discussed a number of people who had 7 valued in your survey the health risks of 8 light cigarettes as being equal to or 9 greater than the health risks of so-called 10 regular cigarettes. 11 Notwithstanding that, under your 12 partworth analysis, you conclude that over 13 90 percent of light cigarette smokers 14 suffered economic damage because they valued 15 health risks of light cigarettes as higher 16 than the perceived -- let me -- I will start 17 that over. 18 Doctor, inasmuch as you found in 19 answers to direct question that more than 20 38 percent of all respondents valued the 21 health risks of light cigarettes as being 22 equal to or greater than the health risks of 23 regular cigarettes, your calculation of 24 damages excluded that group of over 25 38 percent as having no damages at all.</p>

24 (Pages 418 to 421)



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<p>1 Isn't that right?</p> <p>2 MR. GALLAGHER: Objection to the</p> <p>3 form.</p> <p>4 A. I'm providing an expert opinion with respect</p> <p>5 to the survey and the responses of the</p> <p>6 survey. I have not yet been asked to</p> <p>7 provide any economic assessment of the</p> <p>8 damages.</p> <p>9 Q. Well, for that person who did, Doctor</p> <p>10 Harris, Doctor Harris was not provided with</p> <p>11 the responses of the survey participants to</p> <p>12 the question that asked them to value the</p> <p>13 health risks of light cigarettes against the</p> <p>14 health risks of regular cigarettes on a zero</p> <p>15 to 150 plus scale, isn't that correct?</p> <p>16 A. I am unaware of all of the documents that</p> <p>17 Doctor Harris was or was not provided.</p> <p>18 Q. Who made the decision as to which documents</p> <p>19 Doctor Harris would be provided with?</p> <p>20 A. Are you asking me to speculate?</p> <p>21 Q. I'm asking you if you know.</p> <p>22 MR. GALLAGHER: Don't speculate.</p> <p>23 If you know, Doctor.</p> <p>24 Q. I'm asking you if you know who made that</p> <p>25 decision?</p>	<p>1 A. Third line on page 22.</p> <p>2 Q. "For 90.1 percent of the 627 respondents,</p> <p>3 this difference was positive, indicating</p> <p>4 that, given the choices made by respondents</p> <p>5 who answered the survey, the best estimate</p> <p>6 of their importance for health risks is</p> <p>7 positive." Correct?</p> <p>8 A. That's what this report says and that's my</p> <p>9 opinion.</p> <p>10 Q. Your opinion is that approximately</p> <p>11 90 percent of light smokers view health</p> <p>12 risks -- let me rephrase that question.</p> <p>13 It's your opinion that approximately</p> <p>14 90.1 percent of smokers of light cigarettes,</p> <p>15 if given a choice between two identical</p> <p>16 cigarettes, except for health risks, would</p> <p>17 prefer the cigarette that was safer,</p> <p>18 correct?</p> <p>19 A. What this says is that for -- my best</p> <p>20 estimate is that 90.1 percent of the</p> <p>21 respondents, if given the choice between two</p> <p>22 otherwise totally identical cigarettes, one</p> <p>23 of which had less health risk and the other</p> <p>24 of which had more health risk, then they</p> <p>25 would value that choice and choose the one</p>
Page 423	Page 425
<p>1 A. I do not know what documents Doctor Harris</p> <p>2 requested, nor do I know what documents he's</p> <p>3 been provided.</p> <p>4 Q. Who transmitted the documents to Doctor</p> <p>5 Harris to the best of your knowledge?</p> <p>6 MR. GALLAGHER: Objection to the</p> <p>7 form.</p> <p>8 A. Which documents are you referring to?</p> <p>9 Q. Any documents relating to your partworth</p> <p>10 study to your questionnaire.</p> <p>11 MR. GALLAGHER: Objection to the</p> <p>12 form.</p> <p>13 A. I do not know who transmitted the</p> <p>14 information to Harris with respect to the</p> <p>15 conjoint analysis study other than what he</p> <p>16 asked me directly, so I don't want to</p> <p>17 speculate as to who would have provided that</p> <p>18 information.</p> <p>19 Q. Now in your opinion you say that for 90.1 of</p> <p>20 the -- page 22.</p> <p>21 A. Exhibit?</p> <p>22 Q. Exhibit Number 1, page 22.</p> <p>23 A. Page 22.</p> <p>24 Q. You say in the beginning of the end of the</p> <p>25 third line --</p>	<p>1 with less health risk.</p> <p>2 Now there's the other ten percent.</p> <p>3 I can't recall which of those would go the</p> <p>4 other way or which of those just would be</p> <p>5 indifferent.</p> <p>6 Q. Why would anyone presented with two</p> <p>7 otherwise identical cigarettes not prefer</p> <p>8 the safer cigarette?</p> <p>9 MR. GALLAGHER: Objection to the</p> <p>10 form.</p> <p>11 A. Well, there were a few people in here --</p> <p>12 it's a very small number -- which might be</p> <p>13 considered error and we indicated there's</p> <p>14 always going to be a few of those within any</p> <p>15 survey, and that's why we have to deal with</p> <p>16 the vast majority of these, and it might</p> <p>17 also be that there are other reasons that I</p> <p>18 would just have to speculate upon, but with</p> <p>19 the quantitative number per se is that we</p> <p>20 came up with a very, very small number who</p> <p>21 appeared to be placing positive or negative</p> <p>22 value on health risk, very small number</p> <p>23 which could be within surveyor.</p> <p>24 Q. In so doing those people were not comparing</p> <p>25 the perception of health risks of light</p>

25 (Pages 422 to 425)

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<p>1 cigarettes as they're marketed and regular 2 cigarettes so-called as they're marketed 3 which was asked in a different question on 4 your questionnaire, but rather were 5 evaluating whether they gave any value to 6 health risks at all, is that correct? 7 MR. GALLAGHER: Objection to the 8 form. 9 A. Well, you put in a predicate there that 10 wasn't quite technically accurate. Now if 11 you can re-ask the question either without 12 that predicate or -- 13 Q. Which predicate are you preferring to? 14 A. Well, the predicate that says as marketed, 15 and that just didn't feel right, and I found 16 the question a little bit confusing in the 17 way you asked it, so I want to be very 18 careful when I answer the question that I 19 want to answer a well-phrased question that 20 I understand. 21 Q. In your questionnaire you asked respondents 22 to compare hypothetical cigarettes, not 23 cigarettes that are actually marketed, 24 correct? 25 MR. GALLAGHER: Objection to the</p>	<p>1 saying. Might be taste, might be price, 2 might be pack size, but basically 90 percent 3 of the people have positive value, 4 significant positive -- well, I'm sorry, in 5 this case it's just positive value. They 6 have positive value on health. 7 Q. And that positive value is not the positive 8 value that they perceived to be the 9 difference between the cigarettes that they 10 actually smoke and regular cigarettes as 11 marketed in the marketplace, is that 12 correct? 13 MR. GALLAGHER: Objection to the 14 form. 15 A. That's not correct. 16 Q. Okay. Let me rephrase the question. 17 Included within that 90 percent are people 18 who, in fact, view light cigarettes to be at 19 least as dangerous as regular cigarettes. 20 MR. GALLAGHER: Objection to the 21 form. 22 A. Respondents in the survey answered that they 23 perceived, at the time of the survey, and 24 we've gone over these percentages before, 25 but a certain number of these people and we</p>
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<p>1 form. 2 A. The conjoint analysis task describes 3 cigarettes as profiles. Some of these are 4 hypothetical cigarettes. Some of those that 5 responded may recognize as their existing 6 brand, but we are predicated upon the 7 cigarette they're smoking, and then we do 8 vary these four characteristics as I've 9 testified at great length yesterday and 10 today. 11 Q. And in that regard you -- even for people 12 who viewed light cigarettes as being just as 13 risky as so-called regular cigarettes, even 14 such people might prefer a healthier 15 cigarette if they didn't have to give up 16 anything in taste or price or package, is 17 that correct? 18 MR. GALLAGHER: Objection to the 19 form. 20 A. Well, I think what we're finding is that for 21 approximately 90 percent of the people, if 22 they could get better health or less health 23 risk, if they could get less health risks 24 then they would be willing to give up some 25 things to get that, and that's what we're</p>	<p>1 can go back and take a look at those 2 percentages, if need be, at the time of the 3 survey perceived that the health risks of 4 light cigarettes are the same as to health 5 risks of regular cigarettes, and so some of 6 those people would be included within the 7 90 percent who, when faced with a choice of 8 a cigarette that was, say, less unhealthy, 9 would, in fact, be willing to choose -- not 10 only choose the less unhealthy cigarette, 11 but they would be willing to give up other 12 aspects, compensatory attribute to get that 13 better health risk as they perceive it. 14 Q. Doctor, we've gone over the four factors 15 that were measured. One of the factors that 16 was not measured -- one factor that was not 17 measured was brand, correct? 18 A. We've gone over this again and again and 19 again. 20 Q. That's it. 21 A. And as I've indicated, consumers were to 22 consider the brand they were currently using 23 and light cigarette they were currently 24 smoking. 25 Q. There is no where in your study where you</p>

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<p>1 it was asked, so I cannot make an opinion on  2 whether the question was asked correctly,  3 whether it was two-sided or any other  4 appropriate things, so as a result I cannot  5 provide an opinion with respect to this  6 question.  7 MR. GROSSMAN: Mark this as 21.  8 (Poll Releases marked  9 Exhibit Number 21.)  10 Q. Doctor Hauser --  11 MR. GALLAGHER: Let's make this the  12 last exhibit before lunch, please.  13 Q. Doctor Hauser, I hand you what's marked for  14 purposes of identification Hauser Exhibit 21  15 which is a release of the Gallup Poll,  16 November 18, 1999, and I would like to  17 direct your attention, if I may, to the  18 third page where Gallup gives historic  19 results on the question, "All things  20 considered, would you like to give up  21 smoking or not?"  22 MR. GALLAGHER: Have you had an  23 opportunity to take a look at the document,  24 Doctor Hauser?  25 THE WITNESS: No, I have not and I</p>	<p>1 survey with respect to smoking cessation  2 other than as we've so testified. You've  3 now shown me a Gallup poll which I have not  4 had a chance to study the methodology on.  5 You have also shown me some data from  6 Greenfield also which I have not had the  7 chance to study methodology on, so these two  8 may or may not be consistent, and I have no  9 opinion on that until I have a chance to  10 study this and I also, which I think is the  11 final part of your question, I have not  12 provided an expert opinion with regard to  13 smoking cessation in this case, and I have  14 not undertaken any studies with respect to  15 smoking cessation that I can recall.  16 Q. And you're not offering any opinion with  17 regard to the number of smokers of light  18 cigarettes who continued to smoke in  19 reliance on the health characteristics of  20 low tar cigarettes, correct?  21 A. I'm sorry. I really must apologize here. I  22 just wanted to take a quick look at these  23 documents that you put in front of me, so  24 I -- go ahead.  25 MR. GALLAGHER: Listen to his</p>
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<p>1 don't know if I'm going to be able to do  2 this before one o'clock.  3 MR. GALLAGHER: Well, go ahead and  4 ask your question.  5 Q. Okay, I'll ask the question. We'll see.  6 Have you made any study of public polling to  7 determine the extent to which smokers  8 indicate an interest in stopping smoking?  9 MR. GALLAGHER: Again, I object to  10 the form.  11 A. I have indicated many times I am not  12 providing an expert opinion in this case  13 with respect to smoking cessation.  14 Q. Beyond that have you made any effort to  15 compare the results of your questionnaire  16 with any public poll that has ever been  17 conducted and published to determine whether  18 your responses to the questionnaire are  19 within the same range as those determined by  20 public polls that were commissioned for  21 purposes other than litigation?  22 MR. GALLAGHER: Objection to the  23 form.  24 A. Well, let me first say that as you have  25 indicated there are no questions on my</p>	<p>1 question.  2 A. Listen to your question so if you could  3 please re-ask it.  4 Q. You're offering no opinion --  5 A. And --  6 Q. I'll start it again. You were offering no  7 opinion as to the number of smokers of light  8 cigarettes who continued to smoke in  9 reliance on the health characteristics of  10 low tar or other light cigarettes, correct?  11 MR. GALLAGHER: Objection to the  12 form to the extent that it calls for a legal  13 conclusion. Go ahead, Doctor Hauser.  14 A. I have not completed a study in this case  15 nor have I begun a study in this case of  16 smoking cessation.  17 Q. And your conjoint analysis does not purport  18 to measure out-of-pocket expenses or  19 out-of-pocket damages that may have been  20 suffered by light cigarette smokers, is that  21 correct?  22 MR. GALLAGHER: Objection to the  23 form. Again, legal conclusions. Go ahead,  24 Doctor Hauser.  25 A. As I've indicated, I am testifying as an</p>

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<p>1 Stanford, whether it was students or whether</p> <p>2 it was faculty members, and as far as I can</p> <p>3 tell they do not provide explicit reference</p> <p>4 to the study, and the contact person is the</p> <p>5 vice president of marketing communications</p> <p>6 at Knowledge Networks.</p> <p>7 Q. If you look on the last page they say the</p> <p>8 source of their information in the box is</p> <p>9 "Comparing the results of probability and</p> <p>10 non-probability sample surveys presented at</p> <p>11 the 2005 AAPOR conference."</p> <p>12 A. So in other words what they're referencing</p> <p>13 is a verbal presentation which we have no</p> <p>14 way of verifying, and they do not indicate</p> <p>15 either who made that presentation or whether</p> <p>16 or not a Knowledge Networks person was a</p> <p>17 coauthor of that presentation, and curiously</p> <p>18 they do not indicate any of the marketing</p> <p>19 faculty at Stanford having been involved.</p> <p>20 Q. Prior to your engagement of Greenfield</p> <p>21 Online to compile the panel that was used in</p> <p>22 this case, did you make -- did you undertake</p> <p>23 any research to compare the validity of the</p> <p>24 samples aggregated by Greenfield with the</p> <p>25 validity of samples aggregated by Knowledge</p>	<p>1 digitiling, which we defined yesterday and</p> <p>2 based upon that they were then going to</p> <p>3 provide their samplests with web TV as a</p> <p>4 means of answering internet panels.</p> <p>5 Now I do know from the people that</p> <p>6 I once knew at Knowledge Networks they just</p> <p>7 weren't able to make that work, and they</p> <p>8 started losing a lot of business because</p> <p>9 basically the market research industry was</p> <p>10 not convinced of the adequacy of the</p> <p>11 Knowledge Networks panel.</p> <p>12 Now I have not tracked Knowledge</p> <p>13 Network since then, so I do not know if</p> <p>14 Knowledge Networks has, in fact, recovered</p> <p>15 from the trouble that they were in at that</p> <p>16 time, and that was back in oh, I think it</p> <p>17 was about 2001, 2002 when they had a major</p> <p>18 defection of the head of -- basically the</p> <p>19 chief scientist and the head of R and D</p> <p>20 defected from Knowledge Networks because</p> <p>21 they were uncomfortable with this, and I do</p> <p>22 not know whether or not this is in response</p> <p>23 to some of the problems that Knowledge</p> <p>24 Networks was having.</p> <p>25 Q. I'm not asking for a testimonial on behalf</p>
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<p>1 Networks, GoZing, Harris Online, SSI or</p> <p>2 Survey Direct?</p> <p>3 A. Would you please clarify what you mean by</p> <p>4 aggregated?</p> <p>5 Q. Greenfield presented you with a panel among</p> <p>6 whom your survey was taken. Is that</p> <p>7 correct?</p> <p>8 A. Greenfield presented us with a potential set</p> <p>9 of respondents from whom we sampled with</p> <p>10 stratification to 72 different categories.</p> <p>11 Now I note that there's absolutely nothing</p> <p>12 in this document that you've given to me</p> <p>13 that deals at all with stratification or</p> <p>14 with the fact that such stratification will,</p> <p>15 in fact, enhance to the representativeness</p> <p>16 of the survey, so what you've presented me</p> <p>17 with is an analysis of alternative</p> <p>18 methodologies on the raw sample without</p> <p>19 these various stratifications.</p> <p>20 Q. Some Online service providers develop their</p> <p>21 panels through sampling and others through</p> <p>22 volunteering, correct?</p> <p>23 A. Well, what I do know is that originally</p> <p>24 Knowledge Networks had an attempt that they</p> <p>25 were going to use RDD sampling, random</p>	<p>1 of Knowledge Networks. I'm just asking</p> <p>2 whether some internet-based companies --</p> <p>3 internet research providers obtained their</p> <p>4 panels based upon sampling and others</p> <p>5 obtained their panels based upon volunteers?</p> <p>6 A. What I do know is that prior to</p> <p>7 approximately 2001 Knowledge Networks had a</p> <p>8 plan to obtain their sample -- their</p> <p>9 internet sample from random digit dialing.</p> <p>10 I do not know if that continues today. This</p> <p>11 sort of seems -- this document, which is a</p> <p>12 press release, seems to imply that they</p> <p>13 continue that today, so I do not know if</p> <p>14 Knowledge Networks has been able -- has</p> <p>15 found a way in which to make that work.</p> <p>16 Q. Okay. Greenfield Online obtains its panels</p> <p>17 through volunteers, is that correct?</p> <p>18 A. Greenfield Online is primarily an opt in</p> <p>19 panel as has been appropriate in terms of</p> <p>20 the change in basically the way surveys are</p> <p>21 done over the last five or six years with</p> <p>22 the -- basically opt in being one of the</p> <p>23 best way to get panels.</p> <p>24 Q. Every person who participated in your survey</p> <p>25 online had volunteered to participate in</p>

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<p>1 Greenfield Online surveys, is that correct?</p> <p>2 A. Every survey that's done, the respondent is</p> <p>3 presented with an option, and that option</p> <p>4 could be to complete that survey or not</p> <p>5 complete the survey, so if the person, in</p> <p>6 fact, has completed the survey that we ask</p> <p>7 them to complete, then I guess you can say</p> <p>8 that that's volunteering, but we took again</p> <p>9 the methodology which you seem to be</p> <p>10 slightly mischaracterizing is we randomly</p> <p>11 sample for Greenfield. We then did a</p> <p>12 stratification. We then invited people. We</p> <p>13 sought these people out, and we invited them</p> <p>14 to complete our survey, so it's not fully</p> <p>15 volunteering.</p> <p>16 Q. Doctor Hauser, the way these people were</p> <p>17 chosen by Greenfield Online in the first</p> <p>18 place was that these people volunteered to</p> <p>19 participate not only in one survey, but in a</p> <p>20 series of surveys for Greenfield Online,</p> <p>21 isn't that correct?</p> <p>22 MR. GALLAGHER: Objection to the</p> <p>23 form. Asked and answered.</p> <p>24 A. You know, you're using the word, volunteer,</p> <p>25 here. Now volunteer, if you'd like to</p>	<p>1 reviewed it online which describes just a</p> <p>2 variety of methods that Greenfield uses.</p> <p>3 Now once we have that I felt</p> <p>4 necessity to do a stratified sampling to</p> <p>5 bring it back in line with demographic</p> <p>6 variables, and from my experience I know</p> <p>7 such stratification has a very high</p> <p>8 probability of bringing things back in line</p> <p>9 to be representative.</p> <p>10 Q. And every person who was included in your</p> <p>11 627 respondents was paid by Greenfield</p> <p>12 Online for participating in the survey,</p> <p>13 isn't that correct?</p> <p>14 A. As I have indicated in my survey, we gave</p> <p>15 people incentives. They were offered \$5 to</p> <p>16 complete the survey, and basically these</p> <p>17 incentives are just incentives to complete</p> <p>18 the survey, and I found that there's no bias</p> <p>19 from past experience with using incentives.</p> <p>20 Some surveys will go quite a bit more</p> <p>21 than \$5.</p> <p>22 Q. There was also, in addition to \$5 payment,</p> <p>23 to every person there was also a sweepstakes</p> <p>24 in which participants could obtain something</p> <p>25 more valuable than \$5, is that correct?</p>
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<p>1 define what you mean, do you mean the</p> <p>2 procedure by which Greenfield used? Now</p> <p>3 it's not that these people are saying Gee, I</p> <p>4 want to take your surveys, and they're not</p> <p>5 coming out of the blue.</p> <p>6 Greenfield is doing a various set</p> <p>7 of things, set of activities to recruit</p> <p>8 people to join their panels and everyone is</p> <p>9 given the option of being in that panel, and</p> <p>10 that same thing is true with Knowledge</p> <p>11 Networks.</p> <p>12 They just use a different way of</p> <p>13 recruiting people to join their networks</p> <p>14 also Knowledge Network panels, they have the</p> <p>15 option to join or not join.</p> <p>16 Q. How does Greenfield review its panel?</p> <p>17 A. Greenfield, to the best of my recollection,</p> <p>18 and I did review this, but again we don't</p> <p>19 want to rely entirely on my recollection is</p> <p>20 they use a whole series of methods. Some of</p> <p>21 these include internet invitations, and I</p> <p>22 can't remember all of the other means. It's</p> <p>23 described and I think it's in the documents</p> <p>24 you may have been given if we had those. I</p> <p>25 don't remember if we had them. I certainly</p>	<p>1 A. Yes, there was a sweepstakes, although the</p> <p>2 suspected value of that sweepstakes is, to</p> <p>3 the best of my knowledge, less than \$5.</p> <p>4 Q. Doctor, let me hand you what I'll have</p> <p>5 marked for identification as Exhibit 23.</p> <p>6 (Screening Statistics</p> <p>7 marked Exhibit Number 23.)</p> <p>8 Q. Doctor, here is Exhibit 23. Marked for</p> <p>9 identification purposes. It's a copy of</p> <p>10 your Screening Statistics.</p> <p>11 MR. GALLAGHER: Exhibit F.</p> <p>12 MR. GROSSMAN: Exhibit F. I'm</p> <p>13 sorry. Correct.</p> <p>14 Q. You indicate on this that Greenfield Online</p> <p>15 sent out 52,402 invitations and that 44,159</p> <p>16 people did not respond to the invitation?</p> <p>17 A. Yes.</p> <p>18 Q. Now in Exhibit 22 which was the press</p> <p>19 release by Knowledge Networks on the last</p> <p>20 page they show a cooperation rate among</p> <p>21 research vendors.</p> <p>22 A. Yes.</p> <p>23 Q. And they suggest that 73 percent of the</p> <p>24 people who they contact agree to participate</p> <p>25 in their surveys?</p>

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<p>1 respect to Greenfield. 2 Q. I'd like to direct your attention to two 3 paragraphs. First, on page three do you see 4 where it says incentives? 5 A. Yes. 6 Q. Just below that there's a line that begins 7 optimizing response rates? 8 A. Optimizing response rates. 9 Q. Okay. I'll read it. "Optimizing response 10 rates, retention and panel depth requires a 11 certain level of engagement that goes beyond 12 cash rewards. Thus our help desk staff adds 13 value to our relationship. We make sure our 14 panelists receive enough survey 15 opportunities to stay engaged, but at the 16 same time our guidelines manage exposure to 17 surveys and remove panel members from the 18 pool for a specified time after every 19 completed survey. This discourages 20 so-called professional survey takers from 21 unfairly weighting the sample." Do you see 22 that? 23 A. I see what you've read into the record, yes. 24 Q. Are you familiar with the term, professional 25 survey takers?</p>	<p>1 more than 30 surveys with those who 2 completed less than 30 surveys. 3 Q. When did you undertake to make those 4 calculations? 5 A. I undertook to make those calculations 6 within the last week or so. 7 Q. Okay. So at the time the survey was 8 conducted in June, 2005, you made no effort 9 to determine whether any of the people 10 taking the survey could be characterized 11 as professional survey takers, is that 12 correct? 13 MR. GALLAGHER: Objection to the 14 form. 15 A. You've now introduced a term, professional 16 survey takers, but -- 17 Q. I'll rephrase the question. In June of 2005 18 you made no effort to determine how many 19 people in the panel offered by Greenfield 20 had, in fact, taken more than 30 surveys 21 with Greenfield, is that correct? 22 A. At the time I did the survey that 23 information was not available to me. After 24 that information became available to me I 25 immediately did the calculations.</p>
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<p>1 A. I've heard it used before, but this appears 2 to be Greenfield's statement. 3 Q. Greenfield is -- 4 A. However, there is no indication and 5 certainly something we can look at as to 6 whether a professional survey taker would be 7 at all different with respect to the 8 variables of interest relative to anybody 9 else. 10 Q. We were provided with a calculation that I 11 gather you did to determine whether people 12 who might be characterized as professional 13 survey takers answered the questions on this 14 survey differently than people who had taken 15 fewer than 30 surveys. Are you familiar 16 with that calculation? Do you recall having 17 made that calculation? 18 A. Well, you've put a predicate in that, and I 19 don't accept a predicate. 20 Q. Did you make a calculation comparing the 21 responses of people who had completed more 22 than 30 surveys with Greenfield and those 23 who had completed fewer than 30 surveys? 24 A. Yes, I have completed a series of 25 calculations to compare people who answered</p>	<p>1 Q. When did that information become available 2 to you? 3 A. That information became available to me 4 relatively recently. 5 Q. How did that information become available to 6 you? 7 A. I was looking through the documents that you 8 had been provided and saw compilation, 9 something -- I don't know. I think it might 10 have been this which is Exhibit 20. 11 Q. Yes. 12 A. And I looked at that and I said, Well, we 13 have one variable; let's at least check to 14 see if that variable affects anything. 15 Q. In fact, when you say materials that I had 16 been provided, you're referring to the 17 materials that AMS had provided to 18 defendants in this case, is that correct? 19 A. These are materials that AMS had provided. 20 Q. These are materials -- how long did AMS have 21 these materials? When did AMS receive these 22 materials? 23 A. I do not know how long AMS had these 24 materials. 25 Q. And why did you undertake to -- why did you</p>

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<p>1 Q. Among the survey respondents, the median was 2 31 completed surveys and the mean was 73, is 3 that correct? 4 A. I recall that the median was approximately 5 30. I do not recall the mean. Now the mean 6 is not a robust statistic and it could be 7 led by -- it could be driven by one or two 8 people with very high numbers. The more 9 robust and more appropriate statistic is the 10 median. 11 Q. Well, almost 51 percent of the respondents 12 had completed more than 30 surveys, is that 13 correct? 14 A. By the way, you're saying completed 30 15 surveys. Within what period of time? 16 Q. We don't know. Do you know during what 17 period of time the surveys were completed 18 within? 19 A. My understanding, and I can't remember the 20 answer to this. I probably should have 21 written it down, but it's the number of 22 surveys since joining the panel and, for 23 example, if we look at this respondent 24 103898, joined the panel in the beginning of 25 1999, so that person would have been in the</p>	<p>1 then -- when it came to light that there 2 were panelists who had taken a number of 3 surveys, I did median split analysis to 4 determine whether or not that changes my 5 opinions, and as you know from looking at it 6 there is a slight change in the opinions, 7 and I'm quite happy to provide that. 8 Q. Doctor, let me -- 9 A. Do you wish me to? 10 Q. Not at this time. I plan to go back to it 11 when I have an opportunity, but I'm running 12 out of time. Doctor, let me just address 13 one more thing, and then I'm going to hand 14 this over to Murray Garnick and I'll make a 15 statement before I do. 16 In earlier testimony you clarified 17 you made no effort to study the 18 communications between cigarette companies 19 and smokers of light cigarettes. Do you 20 recall that? 21 A. I have paid no -- providing no expert 22 opinion on the advertising of cigarette. 23 Q. And you're providing no expert opinion on 24 the sources of information that consumers 25 relied upon in choosing light cigarettes, is</p>
Page 475	Page 477
<p>1 panel '99, 2000, one, two, three, four, 2 five -- this is his eighth year on the 3 panel, so that says that that person is 4 taking eight years times 12 months, so less 5 than one survey a month. 6 Q. Isn't one of Greenfield's guides that people 7 will not stay on the panel for more than two 8 years? 9 A. I don't recall that. 10 Q. You haven't studied that? 11 A. That's a misstatement. I said I do not 12 recall it. I did not say I haven't studied 13 that. 14 Q. Doctor, high quality online service 15 companies engaged in market research, survey 16 research, make efforts to avoid the 17 so-called dreaded survey professional survey 18 taker, is that correct? 19 MR. GALLAGHER: Objection. 20 A. That's something that you have just read 21 from this into the record. I, you know, 22 this is a statement that are made in sales 23 materials. I made a judgment that I felt 24 that from Greenfield we could do a 25 subselection of that -- of the panelists. I</p>	<p>1 that correct? 2 MR. GALLAGHER: Objection. Asked 3 and answered. 4 A. I've answered that before, but I am not 5 providing an expert opinion with respect to 6 the source of information that consumers 7 used when they made their decision to 8 initially begin smoking light cigarettes. 9 Q. Okay. And you're offering no expert 10 testimony, offering no expert opinion on the 11 percentage of light smokers who purchased 12 light cigarettes in reliance on anything 13 ever said by cigarette companies, is that 14 correct? 15 A. That is not correct. 16 MR. GALLAGHER: Objection to form. 17 Asked and answered. 18 MR. GROSSMAN: I have a great deal 19 more questions to ask. I have a great deal 20 more ground to cover. I've covered about 21 roughly half of my outline. As I've noted 22 throughout, I've found the answers to be 23 non-responsive and long and I will be 24 needing more time to complete this, but in 25 deference to my colleagues I'm going to turn</p>

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<p>1 your expert report from last August. Let me</p> <p>2 ask you to turn to paragraph ten. In</p> <p>3 paragraph ten you conclude that "Health</p> <p>4 risks are a positive contributing factor in</p> <p>5 the choice of light cigarettes for 90.1</p> <p>6 percent of light cigarette consumers." Do</p> <p>7 you see that?</p> <p>8 A. Just a second. I'm changing my glasses.</p> <p>9 Okay, page ten. What paragraph again?</p> <p>10 Q. Paragraph ten?</p> <p>11 A. Paragraph ten.</p> <p>12 Q. Paragraph ten.</p> <p>13 A. I'm sorry. I'm on page ten.</p> <p>14 Q. Page five, paragraph ten, and in that</p> <p>15 paragraph you state that you conclude that</p> <p>16 "Health risks are a positive contributing</p> <p>17 factor in the choice of light cigarettes for</p> <p>18 90.1 percent of light cigarette consumers."</p> <p>19 Do you see that?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. What do you mean by "positive contributing</p> <p>22 factor?"</p> <p>23 A. What I mean by positive contributing factor</p> <p>24 is if consumers are given the choice between</p> <p>25 cigarettes that vary in price and vary in</p>	<p>1 Q. Well, would it be correct for me to conclude</p> <p>2 from your statement here on paragraph ten</p> <p>3 that you've determined that 90 percent of</p> <p>4 light cigarette consumers would not have</p> <p>5 purchased lights if they had perceived</p> <p>6 lights to have the same health risks as</p> <p>7 regular cigarettes?</p> <p>8 A. No. There's other things that can go into</p> <p>9 that.</p> <p>10 Q. What are those other things?</p> <p>11 A. Well, there's other attributes to be</p> <p>12 measured and whether or not they're</p> <p>13 sufficiently different.</p> <p>14 Q. For example, what are those other attributes</p> <p>15 that have to be measured?</p> <p>16 A. Taste, pack size.</p> <p>17 Q. Now why do I have to --</p> <p>18 A. Price.</p> <p>19 MR. GALLAGHER: He's not done. Go</p> <p>20 ahead. Taste, pack size and --</p> <p>21 A. Taste, pack size and price.</p> <p>22 Q. Why would I have to measure taste to</p> <p>23 determine whether 90 percent or 90.1 percent</p> <p>24 of light cigarette smokers would not have</p> <p>25 purchased light cigarettes if they had</p>
Page 483	Page 485
<p>1 health risk and possibly taste and pack</p> <p>2 size, that the coefficient partworth of</p> <p>3 health risk will be positive, that is a</p> <p>4 compensatory attribute and trading off</p> <p>5 health risk versus those other attributes.</p> <p>6 Q. Now do you mean by that that -- have you</p> <p>7 determined that 90 percent of light</p> <p>8 cigarette smokers -- strike that. New</p> <p>9 question. Does that 90.1 percent mean --</p> <p>10 that figure that you have in paragraph ten,</p> <p>11 does that mean that 90 percent or</p> <p>12 90.1 percent of light cigarette smokers</p> <p>13 would not have purchased light cigarettes if</p> <p>14 they had perceived the risks of lights to be</p> <p>15 the same as the risks of regular cigarettes?</p> <p>16 MR. GALLAGHER: Objection.</p> <p>17 A. That's -- you've basically changed a context</p> <p>18 here and you've essentially changed from</p> <p>19 preferences to perceptions, and without</p> <p>20 further details on your question, I can't</p> <p>21 answer that, so if you provide me with more</p> <p>22 details I can answer your question.</p> <p>23 Q. Like what details?</p> <p>24 A. Well, restate the question and I'll give you</p> <p>25 those details.</p>	<p>1 perceived lights to have the same risks as</p> <p>2 regular cigarettes?</p> <p>3 MR. GALLAGHER: Objection to form.</p> <p>4 A. Well, as I mentioned before the conjoint</p> <p>5 analysis to which you're referring to this</p> <p>6 90 percent comes from is an analysis of</p> <p>7 these four attributes, and you're taking</p> <p>8 just one of those attributes.</p> <p>9 I've indicated that there are other</p> <p>10 things that can compensate for health risk</p> <p>11 so if you give me two completely specified</p> <p>12 profiles, then I can give you an answer to</p> <p>13 that question, and you're only giving me --</p> <p>14 you're only specifying one attribute in that</p> <p>15 profile.</p> <p>16 Q. How do you determine the percentage of light</p> <p>17 cigarette smokers who would not have</p> <p>18 purchased light cigarettes if they had</p> <p>19 perceived lights to have the same risks as</p> <p>20 regular cigarettes?</p> <p>21 MR. GALLAGHER: Objection to the</p> <p>22 form.</p> <p>23 A. The data that I have coupled with other data</p> <p>24 can be used by other experts such as Doctor</p> <p>25 Harris should he choose to do so to answer</p>

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<p>1 questions such as that.</p> <p>2 Q. Have you answered that question?</p> <p>3 A. I am not providing a damages opinion in this</p> <p>4 case. I can talk about what the data means</p> <p>5 from the survey, and I can give you</p> <p>6 interpretations of that data, and that's</p> <p>7 what I'm here to do today.</p> <p>8 Q. I'm not sure, just as background, what is a</p> <p>9 damage question and what is not, so let me</p> <p>10 ask again the actual question of whether you</p> <p>11 have done an estimate, done a calculation on</p> <p>12 the percentage of light cigarette smokers</p> <p>13 who would not have purchased lights if they</p> <p>14 had perceived the risks of lights to be the</p> <p>15 same as the risks of regular cigarettes?</p> <p>16 MR. GALLAGHER: Objection. Asked</p> <p>17 and answered.</p> <p>18 A. I have provided a market simulation in this</p> <p>19 paper -- I'm sorry -- expert report and</p> <p>20 that's the market simulation upon which I'm</p> <p>21 providing an expert opinion. In doing that</p> <p>22 I seem to recall we may have done a little</p> <p>23 bit of sensitivity analysis. I don't recall</p> <p>24 all of those, but beyond that I've not done</p> <p>25 a lot of market simulations, particularly</p>	<p>1 market -- full market equilibrium analysis.</p> <p>2 I have not done a full market equilibrium</p> <p>3 analysis in this case although the data that</p> <p>4 I provided may be used in such analysis.</p> <p>5 Q. Can I ask you to turn to page 16 of your</p> <p>6 expert report, footnote 21. Would it be a</p> <p>7 correct interpretation of this footnote to</p> <p>8 conclude from it that you found that --</p> <p>9 A. Might be simpler if I read it first and then</p> <p>10 listen to your question.</p> <p>11 Q. Fine, please.</p> <p>12 MR. GALLAGHER: Footnote 21?</p> <p>13 MR. GARNICK: Footnote 21.</p> <p>14 MR. GALLAGHER: Okay, thanks.</p> <p>15 A. Okay, now you can ask the question. I just</p> <p>16 wanted to make sure which ways the numbers</p> <p>17 are going and things like that. Yes.</p> <p>18 Q. On average were the partworths greater for</p> <p>19 soft pack or hard pack?</p> <p>20 A. Like to look at the exhibit to be sure, but</p> <p>21 based upon this footnote it appears that it</p> <p>22 was higher for soft pack versus hard pack.</p> <p>23 Q. Do you know whether, in the market, the</p> <p>24 majority of light cigarette smokers prefer</p> <p>25 soft pack or hard pack?</p>
Page 487	Page 489
<p>1 using price and tastes and other data from</p> <p>2 the marketplace as it exists, and those</p> <p>3 market simulations would be what would be</p> <p>4 required to answer the question that you're</p> <p>5 posing which is an incomplete question with</p> <p>6 respect to the conjoint analysis.</p> <p>7 Q. Have you offered an opinion as to a specific</p> <p>8 percentage of light cigarette smokers who</p> <p>9 would not have purchased light cigarettes if</p> <p>10 they had perceived the risks of lights to be</p> <p>11 the same as regular cigarettes?</p> <p>12 A. I have -- data that I've provided can be</p> <p>13 used to run that analysis with other data.</p> <p>14 I have not particularly run that analysis</p> <p>15 yet; however, should I be provided that</p> <p>16 data, I certainly would be able to run those</p> <p>17 analysis.</p> <p>18 Q. Have you been asked in this case to estimate</p> <p>19 what the market price would be if lights had</p> <p>20 always been perceived by consumers to be</p> <p>21 just as risky as regular cigarettes?</p> <p>22 MR. GALLAGHER: Objection to the</p> <p>23 form.</p> <p>24 A. In order to determine the market price, I</p> <p>25 presume that an economic expert would do a</p>	<p>1 A. This is indicative of preference not</p> <p>2 conditioned upon all the other attributes.</p> <p>3 Q. I'm sorry. Was that a yes, you know, or no,</p> <p>4 you don't know?</p> <p>5 A. Well, this is indicative of the fact that on</p> <p>6 average the partworth of soft pack is higher</p> <p>7 than the partworth of hard pack.</p> <p>8 Q. Do you know whether, in the real market, the</p> <p>9 majority of light cigarette smokers prefer</p> <p>10 hard pack or soft pack?</p> <p>11 A. I don't want to pick on bones, but what do</p> <p>12 you mean by prefer? Do you mean that all</p> <p>13 else equal, do they prefer soft versus hard</p> <p>14 pack?</p> <p>15 Q. Right.</p> <p>16 A. This would be indicating that all else</p> <p>17 equal, it's soft. On average the partworth</p> <p>18 is bigger. Now this is the average</p> <p>19 partworth is bigger. Does not say that the</p> <p>20 majority of people prefer soft versus hard</p> <p>21 pack, and we've gone through that before,</p> <p>22 the difference between averages and numbers</p> <p>23 of people. Median is reflective of numbers</p> <p>24 of people. Average is just averaging the</p> <p>25 part where it's overall people. Now from</p>

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<p style="text-align: right;">Page 502</p> <p>1 the case. Again, there were percentages and</p> <p>2 we looked at the percentages, but I can't</p> <p>3 remember all the details. Now I think if</p> <p>4 you'd like we can go to the actual</p> <p>5 description of that calculation which is in</p> <p>6 the report.</p> <p>7 Q. Well, I'm satisfied with your answer unless</p> <p>8 you feel you need to go through it. Let me</p> <p>9 just ask another question.</p> <p>10 A. Let me just make sure I answered it</p> <p>11 correctly. I think we had it on page 22 or</p> <p>12 something? It's getting late in the day and</p> <p>13 I want to make sure I answer -- positive</p> <p>14 value on health risk. I can't find it in</p> <p>15 the report, but as I recall importances were</p> <p>16 basically the difference between the maximum</p> <p>17 and the min. We've gone over that earlier</p> <p>18 in the deposition.</p> <p>19 Q. Okay. Now if I wanted to know for what</p> <p>20 percentage of light cigarette smokers, the</p> <p>21 difference or the net of value of</p> <p>22 partworths -- strike that. If I wanted to</p> <p>23 compare not the greatest -- if I wanted to</p> <p>24 compare not the extremes of partworth, that</p> <p>25 is, greater than regulars and less than</p>	<p style="text-align: right;">Page 504</p> <p>1 Q. Is the 90.1 percent, that doesn't represent</p> <p>2 the people who have a positive partworth</p> <p>3 comparing the partworths for health for</p> <p>4 light cigarettes and the partworth for</p> <p>5 health for regular cigarettes, correct?</p> <p>6 A. What the 90.1 percent -- it says</p> <p>7 90.1 percent of the people care about health</p> <p>8 and are willing to trade off health risks</p> <p>9 versus other aspects in the marketplace. So</p> <p>10 over this range they have a positive</p> <p>11 valuation of health, and the range, I'm very</p> <p>12 comfortable with the differences there.</p> <p>13 Q. So the 90.1 percent is not the percentage of</p> <p>14 light smokers who perceive that lights are</p> <p>15 less unhealthy than regulars, correct?</p> <p>16 A. That's a different number that we've spoken</p> <p>17 about before.</p> <p>18 Q. Okay.</p> <p>19 A. This 90.1 percent is the people that place a</p> <p>20 positive value on health and are willing to</p> <p>21 trade off health versus other aspects.</p> <p>22 Q. Now you talk about ranking the attributes in</p> <p>23 your expert report, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And in ranking the attributes, you look at</p>
<p style="text-align: right;">Page 503</p> <p>1 ultras -- if I just wanted to compare the</p> <p>2 partworths attached to the risks of light</p> <p>3 and the risks of regulars, how would I do</p> <p>4 that?</p> <p>5 A. Well, okay, first is the partworths as they</p> <p>6 perceive it.</p> <p>7 Q. Right.</p> <p>8 A. So the partworths of their perceptions of</p> <p>9 light versus the partworths of, say, their</p> <p>10 perceptions of ultra lights. If you want to</p> <p>11 compare lights versus ultra lights.</p> <p>12 Q. How about lights versus regulars?</p> <p>13 A. So you'd like to compare lights versus</p> <p>14 regulars, so we'd like to compare lights</p> <p>15 versus regulars for each and every</p> <p>16 respondent recognizing that for some of the</p> <p>17 people they perceive that the health risks</p> <p>18 of lights are less than regulars and some of</p> <p>19 the people, as you've indicated, may have a</p> <p>20 different perception.</p> <p>21 We have provided -- I'm pretty sure</p> <p>22 in the documents, the posterior means, for</p> <p>23 every respondent on all these partworths.</p> <p>24 Q. So they can be calculated?</p> <p>25 A. Yes. They can be calculated.</p>	<p style="text-align: right;">Page 505</p> <p>1 the differences between partworths between</p> <p>2 two extremes, is that fair to say?</p> <p>3 A. Yes, and that's so -- I think we've gone</p> <p>4 over that before, and that was the paragraph</p> <p>5 I was trying to find. If someone can help</p> <p>6 me find that paragraph, we can be very exact</p> <p>7 as to the definitions.</p> <p>8 Q. Now if we wanted to rank the attributes only</p> <p>9 with respect to light and regular</p> <p>10 cigarettes, we could get a different</p> <p>11 ranking, couldn't we?</p> <p>12 MR. GALLAGHER: Objection to the</p> <p>13 form.</p> <p>14 A. Well, what I've done is I've provided the</p> <p>15 ranking of partworths with respect to the</p> <p>16 max versus the min. I have not completed</p> <p>17 the analysis. It's another analysis that</p> <p>18 can be done. It might make a health risk</p> <p>19 more. It might make a health risk the same,</p> <p>20 etcetera and it's something that certainly</p> <p>21 is doable.</p> <p>22 Q. If, over 37 percent of the respondents who</p> <p>23 took the conjoint study believed that lights</p> <p>24 were as risky or more risky than regular</p> <p>25 cigarettes, that would likely affect the</p>

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<p>1 ranking if one restricted the ranking only</p> <p>2 to comparing light cigarettes and regular</p> <p>3 cigarettes, is that fair?</p> <p>4 MR. GALLAGHER: Objection to the</p> <p>5 form. Go ahead.</p> <p>6 A. Okay. You know, here we are actually</p> <p>7 getting into some of the technical data in</p> <p>8 the HB -- hierarchical Bayes in the --</p> <p>9 mark-off chain analyses. Certainly as we</p> <p>10 change the inputs in the questions we ask,</p> <p>11 those are questions that can be answered.</p> <p>12 Now I have not, sitting here today, run</p> <p>13 those particular numbers, so those are</p> <p>14 numbers that can be run, and I know you've</p> <p>15 been provided with the posterior means so</p> <p>16 you can run those numbers.</p> <p>17 If I'm asked that question by</p> <p>18 either you or counsel and I'm asked to look</p> <p>19 into that, I have the means of answering</p> <p>20 that question, but I don't know the answer</p> <p>21 to that question without doing those</p> <p>22 analyses</p> <p>23 Q. And again just to be clear, when you said</p> <p>24 that approximately 18 percent of the</p> <p>25 respondents ranked health risks at the very</p>	<p>1 believed that lights were as risky or more</p> <p>2 risky than regular cigarettes, correct?</p> <p>3 A. Okay. Remember that these respondents</p> <p>4 perceived this at the time of the survey, so</p> <p>5 I don't know what their perceptions were</p> <p>6 prior, you know, maybe a year or two prior</p> <p>7 to the survey, so with that caveat, we have</p> <p>8 two different measures.</p> <p>9 One is their measures of the</p> <p>10 perceptions of light versus regular</p> <p>11 cigarettes with respect to health risks and</p> <p>12 we're finding that yes, approximately 60</p> <p>13 some odd percentage of people feel that</p> <p>14 light cigarettes are less unhealthy than</p> <p>15 regular cigarettes, and then we have another</p> <p>16 statement which is related to it, but it's</p> <p>17 not the same statement and that's that</p> <p>18 roughly 90 percent of the people place some</p> <p>19 positive value on health risks and are</p> <p>20 willing to trade things off with respect to</p> <p>21 health risk.</p> <p>22 Q. But the two statements are not the same,</p> <p>23 correct?</p> <p>24 A. That's what I've just testified. I've</p> <p>25 testified that you have to interpret these</p>
Page 507	Page 509
<p>1 top, that was referring to the result from</p> <p>2 looking at the two extremes, greater than --</p> <p>3 the health risks greater than regular</p> <p>4 cigarettes and health risks less than an</p> <p>5 ultra-light.</p> <p>6 A. Yes, and I'd like to put that in context, if</p> <p>7 I may.</p> <p>8 Q. Go ahead.</p> <p>9 A. That there are a large number of percentages</p> <p>10 in the report which are basically consistent</p> <p>11 and the 18 percent is one of them. I think</p> <p>12 it was 57 percent which ranked second, but</p> <p>13 basically taking all those analysis as a</p> <p>14 whole it's pretty clear that health is</p> <p>15 pretty important to these respondents, and</p> <p>16 it's really the health risks are very</p> <p>17 important to these respondents as a whole</p> <p>18 and the vast majority of these, and so we're</p> <p>19 taking single numbers, and all these numbers</p> <p>20 are indicative of the overall opinion, and</p> <p>21 the overall opinion, as summarized, is that</p> <p>22 health risks is important to the vast</p> <p>23 majority of these respondents.</p> <p>24 Q. Health risks are also important to the</p> <p>25 over 37 percent of the respondents who</p>	<p>1 as to what they're actually saying and that</p> <p>2 these are two of the many data points or</p> <p>3 analyses in the report that lead me to the</p> <p>4 conclusion that the vast majority of these</p> <p>5 consumers care about health risks.</p> <p>6 Q. Let me direct your attention to paragraph</p> <p>7 nine of your expert report, the second</p> <p>8 sentence. It says, "The results can be</p> <p>9 relied upon to draw inferences about</p> <p>10 whether" --</p> <p>11 A. Could I catch up? Thank you.</p> <p>12 Q. Please.</p> <p>13 MR. GALLAGHER: I'm sorry,</p> <p>14 paragraph nine, page nine?</p> <p>15 THE WITNESS: I'm sorry, I keep</p> <p>16 going to the page. Paragraph nine, page</p> <p>17 five, okay. I'm sorry for --</p> <p>18 Q. Second sentence.</p> <p>19 A. Second sentence.</p> <p>20 Q. "The results can be relied upon to draw</p> <p>21 inferences about whether health risks are a</p> <p>22 significant contributing factor in consumer</p> <p>23 decisions to smoke light cigarettes." Let</p> <p>24 me pause there. Do you see that?</p> <p>25 A. Yes.</p>

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<p>1 extremes. Certainly the consumer, as we 2 found in the pre-tests, and as you've so far 3 indicated, many people have stated -- and I 4 think we've gone to that number. It's sort 5 of 38 percent or whatever, did say that 6 cigarettes were -- that the health risk of 7 regular cigarettes were, in their own 8 perception at the time of the survey, 9 the same as the health risks of light 10 cigarettes, so this is a two-sided 11 question. It was pre-tested. It appears 12 to be accurate, and people are responding 13 with the answer that you're implying that 14 they would not respond with, so I'm very 15 comfortable with the statement of this 16 question. 17 Q. Did you provide, as an example, that they 18 might believe that smoking light cigarettes 19 provides the same health risks as regular 20 cigarettes? 21 MR. GALLAGHER: Objection to the 22 form. 23 A. You know, the direction you're going you're 24 going to say, you know, I should have been 25 saying 50 percent more, 20 percent more,</p>	<p>1 more health risks than regular cigarettes, 2 correct? 3 MR. GALLAGHER: Objection to the 4 form. 5 A. Well, as -- I didn't know that. It's 6 reasonable to assume but, in fact, this 7 would -- you might say that I'm bending over 8 backwards to make sure that this question is 9 two-sided in its nature and it's not leading 10 them one way or the other. 11 What you're implying is that there 12 might be a demand artifact to have them -- 13 that, in fact, this 37 percent that we're 14 having that we've been talking about is too 15 high a number, and it should be less than 16 that. Now, that's what you're implying. I 17 don't believe that. I believe that the 18 numbers in the survey are accurate to the 19 best of our ability and subject to response 20 errors, etcetera, but I do not believe that 21 this statement, in the first paragraph on 22 page E15, is causing any bias one way or the 23 other. 24 Q. If the great majority of people taking this 25 survey, if it's reasonable to assume that</p>
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<p>1 etcetera. I have provided a two-sided 2 question. The two-sided question gives the 3 high level; it gives the low level and by 4 implication gives the middle level, and 5 that's the way the respondents understood it 6 at least to the best of my recollection. 7 Q. Did you list, as an example, that light 8 cigarettes might present the same health 9 risks as regular cigarettes? 10 A. In this particular statement we list more 11 health risk, less health risk. We do not 12 explicitly list equal health risk although 13 that's implicit in the two-sided statement. 14 MR. GALLAGHER: I just want to be 15 clear. You're talking about just in the 16 first paragraph or in the entire screen 17 shot? 18 A. My answer is with respect to just a single 19 paragraph. 20 MR. GARNICK: Just state your 21 objection. 22 MR. GALLAGHER: I did. 23 Q. You knew going in, before you conducted this 24 survey, that very few of the respondents 25 would believe that light cigarettes provide</p>	<p>1 the great majority of the people taking this 2 survey would not think that lights are more 3 risky than regular cigarettes, doesn't this 4 first paragraph suggest to them that smoking 5 light cigarettes provides less risk than 6 smoking regular cigarettes? 7 MR. GALLAGHER: Objection to the 8 form. 9 A. First you said more. Then you said less. 10 I'm not sure -- seems to be a confusing 11 question here. I mean -- 12 MR. GALLAGHER: Hold on. Let him 13 restate the question. 14 Q. You said that it was reasonable to assume 15 that at least the majority of participants 16 taking the survey would not believe that 17 smoking light cigarettes would be more risky 18 than smoking regular cigarettes. 19 A. I did not say that, but go on. 20 Q. The record will be clear. 21 A. The record was saying that I did not have 22 that preconceived notion. It might be 23 reasonable to assume that. 24 Q. Okay. If that is true, it's reasonable to 25 assume that the majority of people would not</p>

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